

REMARKS

The application is amended in a manner that is believed to place the same in condition for allowance at the time of the next Official Action.

Claims 1-3 and 7-9 as previously in the case were rejected under 35 USC §102(b) as being anticipated by RIVARD U.S. Published Application No. 2004/0078508. That rejection is respectfully traversed, for the following reasons.

Applicant notes as a preliminary matter that no rejection of claims 4-6 and 10 is separately set forth in the Official Action. Nevertheless, it appears from the comments in the second and third paragraphs on page 3 of the Official Action that the Examiner may have intended to reject claims 4-6 based on obviousness in view of RIVARD alone, and further to have rejected claim 10 for anticipation. In the interest of advancing prosecution, the Official Action will be treated in that light, notwithstanding the above deficiencies.

Applicant further preliminarily notes that RIVARD does not qualify as prior art under 35 USC §102(b), contrary to the assertion in the Official Action, because RIVARD was not published until after the U.S. filing date of the present application. Instead, RIVARD qualifies as prior art, if at all, only under 35 USC §102(e). Furthermore, applicant notes that the U.S. filing date of RIVARD is subsequent to the Japanese priority date, and no contention is made in the Official Action that the

pertinent disclosure of the RIVARD published application appears also in the provisional application whose priority is claimed in the face of the RIVARD publication; neither does applicant acquiesce in the non-statutory USPTO policy that a provisional application filing date serves to secure a prior art date under 35 USC §102(e).

Nevertheless, applicant will again address the rejection based on RIVARD on its merits, without acquiescing in the prior art status of the reference, and notwithstanding the deficiencies in the rejection as set forth in the Official Action.

By the present amendment, the independent claims 1 and 7 are amended herewith to sharpen the definition of the invention.

In particular, in claims 1 and 7, it is now specified that first data is read from or written to a first disk of the plurality of disks with a timing determined in relation to reading or writing of second data to a second disk in the plurality of disks.

By contrast, in RIVARD, each disk has its own controller, and the reading or writing of data to and from a disk is not performed with a predetermined timing in relation to the reading or writing of data to or from another disk by a separate controller. See, for example, paragraph 47 of Rivard, "[t]he Cache Access Concentrator 201 has one or more high speed,

preferably serial interfaces 220 for the purpose of accessing disk storage through a Write Cache Controller (WCC) 205, 213. Each WCC 205, 213 has one or more disk facing interfaces 206, 219..." and paragraph 49 of Rivard, "[e]ach WCC module can operate autonomously with respect to each other WCC..."

It will be recalled that, in preferred embodiments of the invention, the writing of erroneous new check information is prevented, for example in the instance of a power interruption, in contrast to the prior art, where the new check information could be faulty in such a scenario when based on an incorrect set of data elements. Preferred embodiments of the present invention avoid that result by ensuring that, for example, correctly calculated new check information is held in cache as physical domain data, and preferentially written to one or more of the plurality of disks of a disk array, such that, even in the event of a power interruption, the appropriate check information is preserved and written. No such technique is disclosed or suggested by RIVARD.

The new independent claim 11 recites the invention somewhat differently, and is likewise clearly distinguished from the disclosure of RIVARD. The new dependent claims 12-16 correspond generally to original claims 2-6.

In view of the present amendment and the foregoing remarks, therefore, it is believed that this application is now in condition for allowance, with claims 1-16, as amended.

Allowance and passage to issue on that basis are accordingly respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON



Andrew J. Patch, Reg. No. 32,925
745 South 23rd Street
Arlington, VA 22202
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

AJP/lk